



UNITED STATES PATENT AND TRADEMARK OFFICE

50
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,205	10/17/2003	Henk J. Bots	103.1030.02	6658

22883 7590 08/09/2005
SWERNOFSKY LAW GROUP PC
P.O. BOX 390013
MOUNTAIN VIEW, CA 94039-0013

EXAMINER

BAKER, STEPHEN M

ART UNIT	PAPER NUMBER
----------	--------------

2133

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,205

Applicant(s)

BOTS, HENK J.

Examiner

Stephen M. Baker

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 25-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 040904.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

In the discussion of the related art on page 2 lines 10, 13, 14, 16, 18, 20 and 24, "data pointer 114" apparently should be "data pointer", as "data pointer 114" is apparently part of the invention, not part of the prior art.

The disclosed "data pointer 114", on page 3 line 7, page 5 line 20, page 6 line 25, and page 8 line 6 apparently should be re-named as a "pointer set 114", as it includes a pointer to the data zones and a pointer to the zone checksum array.

There is no mention of the partial zone checksums 119b (FIG. 3) in the disclosure, or of calculating the partial zone checksums, or of combining partial zone checksums and zone checksums.

Appropriate correction is required.

Claim Objections

2. Claim 25 is objected to because of the following informalities: "transferring" apparently should be "transferring". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2133

4. Claims 25-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 25: in lines 5-6, the step of "calculating chunk checksum values responsive to plural of said zone checksum values" apparently should follow any steps of "transferring ... pointers" rather than precede such steps; in line 7, "one or more pointers to said data" apparently should be "a pointer to said data", to agree with the scope of the disclosure; in line 8, "one or more pointers to said chunk checksum values" apparently should be "a pointer to said zone checksum values", to agree with the scope of the disclosure.

Regarding claim 26: there does not appear to be any limit added that is not already inherent in claim 25.

Regarding claim 30: storing partial zone checksum values in the checksum array is apparently not supported by the disclosure.

Regarding claim 31: transferring pointers *from* a NIC is apparently not supported by the disclosure.

Regarding claim 32: storing zone checksum values and chunk checksum values together in a memory is apparently not supported by the disclosure; storing pointers together with the data and zone checksums in a memory is apparently not supported by the disclosure; there is no disclosure of more than one pointer to the data and there is no disclosure of any pointer to chunk checksums.

Art Unit: 2133

Regarding claim 33: there does not appear to be any limit added that is not already inherent in claim 32.

Regarding claim 37: storing partial zone checksum values in the checksum array is apparently not supported by the disclosure.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 25-38 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,637,007. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present claims are merely a re-hash of the claims of the parent application, which already cover calculating zone checksums for data zones and generating a pointer to the data zones and a pointer to the zone checksums, using a memory for storing the data zones and zone checksums, further including sending the pointers to a NIC, and further including combining the zone checksums with

partial zone checksums to generate another checksum over a combination of plural zones and partial zones.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Baker whose telephone number is (571) 272-3814. The examiner can normally be reached on Monday-Friday (11:00 AM - 7:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen M. Baker
Primary Examiner
Art Unit 2133